

REMARKS/ARGUMENTS

Reconsideration of this application in light of the above amendment and following comments is courteously solicited.

Claim 30 has been amended to remove an inadvertent typographical error in response to the Examiner's objection of same. It is submitted that all of the claims as pending comply with the formal requirements of 35 U.S.C. 112, second paragraph.

With regard to the Examiner's rejection of claims 24-45 based on the newly cited reference to Reinhart et al., U.S. '124, Applicant respectfully traverses the rejection for the reasons set forth hereinbelow.

U.S. 2005/0118124 discloses cosmetic compositions comprising Acetyl Hexapeptide-3 having improved skin conditions associated with aging such as wrinkles, fine lines, laxity and the like. Two different embodiments are disclosed by Reinhart et al. '124 which lead to two different kinds of compositions, wherein one kind of composition is anhydrous and the other kind of composition is in the form of an emulsion. Only in cases where the compositions are in the form of an emulsion may they contain water in amounts between 0.1% and 95% (it is referred to [0014] on page 1).

In the official action, the Examiner refers to examples 4 and 5 of Reinhart et al. '124 as anticipating the subject matter of present claim 24. It is submitted that the Examiner's position is erroneous for the reasons set forth below.

As can be taken from the title and the ingredient listing [0318] example 4 does not comprise a polar liquid (which is required in claim 24) in a portion of 0.1 to 5% with respect to the total weight of the composition as required by Applicant's claim 24. This is due to the fact that example 4 belongs to the first embodiment of Reinhart et al. '124 of the anhydrous

compositions of Reinhart et al. '124.

Example 5 comprises three different examples wherein examples 1 and 2 describe a pressed powder and a face powder and wherein example 3 describes a concealer.

Regarding the formulations of example 5, water is present only in minute amounts in the plant extracts. The water content in said extracts is not specified and will be in the common range known for cosmetic extracts, i.e. at least less than 40%. Thus the absolute water content in all formulations of example 5 is below 0.1%. For formulation 3 the water content is far below 0.1% as the absolute content of the extract is only 0.02 wt.%. Thus none of the examples of example 5 discloses a cosmetic formulation comprising a polar liquid in a portion of 0.1 to 5% with respect to the total weight of the composition.

Moreover none of the formulations 1 through 3 of example 5 comprises at least one PEG/PPG Dimethicone with 15 to 20 units of PEG and PPG, respectively, as emulsifier. As can be seen from the ingredient listing only formulation 3 of example 5 discloses PEG/PPG modified emulsifier at all. However, said emulsifier is lauryl PEG/PPG-18/18 Methicone and thus does not belong to the group of emulsifiers used according to the present invention.

According to present claim 24 the inventive emulsifier is a PEG/PPG Dimethicone. Thus, alkyl substituted Dimethicones do not fall under the scope of present claim 24. This is due to the fact that alkylated PEG/PPG Dimethicones were found not to lead to such stable preparations exhibiting excellent application and long wearing properties. Lauryl PEG/PPG-18/18 Methicone disclosed by Reinhart et al. '124 is a lipophilic modified PEG/PPG emulsifier comprising a lauryl residue. The lauryl residue comprises 12 carbon atoms. This modification

leads to an enhancement of the lipophilic properties of the substance thus reducing the stabilizing effect on polar substances.

Moreover Reinhart et al. '124 discloses a PEG/PPG modified Methicone not a Dimethicone. Since Methicones are characterized by a Si-H bond such Methicones are more reactive than Dimethicones due to the instable Si-H bond. Thus Methicones tend to decompose or react with other ingredients and thus no stable compositions can be achieved. Therefore only Dimethicones are used according to the present invention.

Summing up in view of the above Reinhart et al. '124 does not disclose a preparation according to present claim 24 since none of the examples contains a polar liquid in a portion of 0.1 to 5% with respect to the total weight of the composition and since no PEG/PPG Dimethicone having 15 to 20 units of PEG and PPG is disclosed. Thus the subject matter of present claim 24 is novel and inventive in view of Reinhart et al. '124.

In light of the foregoing, it is clear that the sum total teachings of the cited and applied prior art references fail to teach, suggest, or render obvious the preparation set forth in independent claim 24. Accordingly, it is believed that all of the claims as pending patentably define over the art of record and the early issuance of a formal notice of allowance is respectfully requested.

An earnest and thorough attempt has been made by the undersigned to resolve the outstanding issues in this case and place same in condition for allowance. If the Examiner has any questions or feels that a telephone or personal interview would be helpful in resolving any outstanding issues which remain in this application after consideration of this amendment, the Examiner is courteously invited to telephone the undersigned and

the same would be gratefully appreciated.

It is submitted that the claims as amended herein patentably define over the art relied on by the Examiner and early allowance of same is courteously solicited.

If any fees are required in connection with this case, it is respectfully requested that they be charged to Deposit Account No. 02-0184.

Respectfully submitted,

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Date: August 6, 2010